
By: **Delegates Marriott, Benson, Gladden, V. Jones, Kirk, Paige, Phillips,
and Rawlings**

Introduced and read first time: February 9, 2001

Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 **Juvenile Law - Confinement of Children in Adult Correctional Facilities**

3 FOR the purpose of prohibiting a court exercising criminal jurisdiction from ordering
4 a minor to be held in an adult correctional facility pending a determination as to
5 whether to transfer jurisdiction to the juvenile court; requiring the official in
6 charge of an adult correctional facility to take certain actions when an
7 individual who is or appears to be a child is received at an adult correctional
8 facility except under certain circumstances; prohibiting a child from being held
9 in an adult correctional facility or being transported with certain adults except
10 under certain circumstances; defining a certain term; and generally relating to
11 the confinement of children in adult correctional facilities.

12 BY repealing and reenacting, with amendments,
13 Article - Courts and Judicial Proceedings
14 Section 3-801, 3-815(h) and (i), 3-816, and 3-823
15 Annotated Code of Maryland
16 (1998 Replacement Volume and 2000 Supplement)

17 BY repealing
18 Article - Courts and Judicial Proceedings
19 Section 3-815(g)
20 Annotated Code of Maryland
21 (1998 Replacement Volume and 2000 Supplement)

22 BY repealing and reenacting, with amendments,
23 Article - Criminal Procedure
24 Section 4-202(g)
25 Annotated Code of Maryland
26 (As enacted by Chapter _____ (S.B. 1) of the Acts of the General Assembly of
27 2001)

1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
2 MARYLAND, That the Laws of Maryland read as follows:

3 **Article - Criminal Procedure**

4 4-202.

5 (g) Pending a determination under this section to transfer its jurisdiction, the
6 court:

7 (1) may order a [child] MINOR to be held in a juvenile facility; AND

8 (2) MAY NOT ORDER A MINOR TO BE HELD IN A CORRECTIONAL
9 FACILITY, AS DEFINED IN § 3-801 OF THE COURTS ARTICLE.

10 **Article - Courts and Judicial Proceedings**

11 3-801.

12 (a) In this subtitle, the following words have the meanings indicated, unless
13 the context of their use indicates otherwise.

14 (b) "Adjudicatory hearing" means a hearing to determine whether the
15 allegations in the petition, other than allegations that the child requires the court's
16 assistance, treatment, guidance or rehabilitation, are true.

17 (c) "Adult" means a person who is 18 years old or older.

18 (d) "Child" means a person under the age of 18 years.

19 (e) "Child in need of assistance" is a child who requires the assistance of the
20 court because:

21 (1) The child is mentally handicapped or is not receiving ordinary and
22 proper care and attention; and

23 (2) The child's parents, guardian, or custodian are unable or unwilling to
24 give proper care and attention to the child and the child's problems provided, however,
25 a child shall not be deemed to be in need of assistance for the sole reason that the
26 child is being furnished nonmedical remedial care and treatment recognized by State
27 law.

28 (f) "Child in need of supervision" is a child who requires guidance, treatment,
29 or rehabilitation and:

30 (1) Is required by law to attend school and is habitually truant;

31 (2) Is habitually disobedient, ungovernable, and beyond the control of
32 the person having custody of him;

33 (3) Deports himself so as to injure or endanger himself or others; or

1 (4) Has committed an offense applicable only to children.

2 (g) "Citation" means the written form issued by a police officer which serves
3 as the initial pleading against a child for a violation and which is adequate process to
4 give the court jurisdiction over the person cited.

5 (h) "Commit" means to transfer legal custody.

6 (i) "CORRECTIONAL FACILITY" MEANS A FACILITY THAT IS OPERATED FOR
7 THE PURPOSE OF DETAINING OR CONFINING ADULTS WHO ARE CHARGED WITH OR
8 FOUND GUILTY OF A CRIME.

9 (J) "Court" means the circuit court of a county or Baltimore City sitting as the
10 juvenile court. In Montgomery County, it means the District Court sitting as the
11 juvenile court and following the applicable rules of the circuit court.

12 [(j)] (K) "Custodian" means a person or agency to whom legal custody of a
13 child has been given by order of the court, other than the child's parent or legal
14 guardian.

15 [(k)] (L) "Delinquent act" means an act which would be a crime if committed
16 by an adult.

17 [(l)] (M) "Delinquent child" is a child who has committed a delinquent act and
18 requires guidance, treatment, or rehabilitation.

19 [(m)] (N) "Detention" means the temporary care of children who, pending court
20 disposition, require secure custody for the protection of themselves or the community,
21 in physically restricting facilities.

22 [(n)] (O) "Disposition hearing" means a hearing to determine:

23 (1) Whether a child needs or requires the court's assistance, guidance,
24 treatment or rehabilitation; and if so

25 (2) The nature of the assistance, guidance, treatment or rehabilitation.

26 [(o)] (P) "Intake officer" means the person assigned to the court by the
27 Department of Juvenile Justice to provide the intake services set forth in this
28 subtitle.

29 [(p)] (Q) "Local department" means the local department of social services for
30 the jurisdiction in which the court is located.

31 [(q)] (R) "Mentally handicapped child" means a child who is or may be
32 mentally retarded or mentally ill.

33 [(r)] (S) "Party" includes a child who is the subject of a petition or a peace
34 order request, the child's parent, guardian, or custodian, the petitioner and an adult
35 who is charged under § 3-831 of this subtitle.

1 [(s)] (T) "Peace order proceeding" means a proceeding under § 3-820.2 or §
2 3-820.4 of this subtitle.

3 [(t)] (U) "Peace order request" means the initial pleading filed with the court
4 under § 3-820.1 of this subtitle.

5 [(u)] (V) "Petition" means the pleading filed with the court under § 3-812 of
6 this subtitle alleging that a child is a delinquent child, a child in need of assistance, or
7 a child in need of supervision.

8 [(v)] (W) "Respondent" means the individual against whom a petition or a
9 peace order request is filed.

10 [(w)] (X) (1) "Shelter care" means the temporary care of children in
11 physically unrestricting facilities.

12 (2) "Shelter care" does not mean care in a State mental health facility.

13 [(x)] (Y) (1) "Victim" means:

14 (i) A person who suffers direct or threatened physical, emotional,
15 or financial harm as a result of a delinquent act; or

16 (ii) An individual against whom an act specified in § 3-820.1(b) of
17 this subtitle is committed or alleged to have been committed.

18 (2) "Victim" includes a family member of a minor, disabled, or a deceased
19 victim.

20 (3) "Victim" includes, if the victim is not an individual, the victim's agent
21 or designee.

22 [(y)] (Z) "Violation" means a violation of § 400, § 400A, § 400B, § 401, or § 406
23 of Article 27 of the Code and § 26-103 of the Education Article for which a citation is
24 issued.

25 [(z)] (Z-1) "Witness" means any person who is or expects to be a State's
26 witness.

27 3-815.

28 [(g)] A child alleged to be delinquent may not be detained in a jail or other
29 facility for the detention of adults.]

30 [(h)] (G) (1) (i) A child alleged to be in need of supervision or in need of
31 assistance may not be placed in detention and may not be placed in a State mental
32 health facility.

33 (ii) If the child is alleged to be in need of assistance by reason of a
34 mental handicap, the child may be placed in shelter care facilities maintained or

1 licensed by the Department of Health and Mental Hygiene or if these facilities are not
2 available, then in a private home or shelter care facility approved by the court.

3 (iii) If the child is alleged to be in need of assistance for any other
4 reason, or in need of supervision, he may be placed in shelter care facilities
5 maintained or approved by the Social Services Administration, or the Department of
6 Juvenile Justice, or in a private home or shelter care facility approved by the court.

7 (2) A child alleged to be in need of supervision or in need of assistance
8 may not be placed in a shelter care facility that is not operating in compliance with
9 applicable State licensing laws.

10 (3) The Secretary of Human Resources and the Secretary of the
11 Department of Juvenile Justice together, when appropriate, with the Secretary of
12 Health and Mental Hygiene shall jointly adopt regulations to ensure that any child
13 placed in shelter care pursuant to a petition filed under subsection (d) of this section
14 be provided appropriate services, including:

15 (i) Health care services;

16 (ii) Counseling services;

17 (iii) Education services;

18 (iv) Social work services; and

19 (v) Drug and alcohol abuse assessment or treatment services.

20 (4) In addition to any other provision, the regulations shall require:

21 (i) The local department of social services or the Department of
22 Juvenile Justice to develop a plan within 45 days of placement of a child in a shelter
23 care facility to assess the child's treatment needs; and

24 (ii) The plan to be submitted to all parties to the petition and their
25 counsel.

26 [(i)] (H) The intake officer or the official who authorized detention or shelter
27 care shall immediately give written notice of the authorization for detention or shelter
28 care to the child's parent, guardian, or custodian, and to the court. The notice shall be
29 accompanied by a statement of the reasons for taking the child into custody and
30 placing [him] THE CHILD in detention or shelter care. This notice may be combined
31 with the notice required under subsection (d) of this section.

32 3-816.

33 [(a) The] EXCEPT AS OTHERWISE PROVIDED IN § 3-823(B) OF THIS SUBTITLE,
34 THE official in charge of a [jail or other facility for the detention of adult offenders or
35 persons charged with crime] CORRECTIONAL FACILITY shall inform the court or the
36 intake officer immediately when [a person, who is or appears to be under the age of

1 18 years,] AN INDIVIDUAL WHO IS OR APPEARS TO BE A CHILD is received at the
2 facility and shall deliver [him] THE INDIVIDUAL to the court upon request or transfer
3 [him] THE INDIVIDUAL to the facility designated by the intake officer or the court [,
4 unless the court has waived its jurisdiction with respect to the person and he is being
5 proceeded against as an adult].

6 [(b) When a case is transferred to another court for criminal prosecution, the
7 child shall promptly be transferred to the appropriate officer or adult detention
8 facility in accordance with the law governing the detention of persons charged with
9 crime.

10 (c) A child may not be transported together with adults who have been
11 charged with or convicted of a crime unless the court has waived its jurisdiction and
12 the child is being proceeded against as an adult.]

13 3-823.

14 (a) [A] EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A child
15 may not be:

16 (1) [detained] DETAINED at, or committed or transferred to, a [penal
17 institution or other facility used primarily for the confinement of adults charged with
18 or convicted of a crime, except pursuant to § 3-816(b)] CORRECTIONAL FACILITY; OR

19 (2) TRANSPORTED TOGETHER WITH ADULTS WHO HAVE BEEN CHARGED
20 WITH OR CONVICTED OF A CRIME.

21 (b) A CHILD WHO IS CHARGED AS AN ADULT WITH A CRIME AND IS
22 CONVICTED OF THE CRIME MAY BE:

23 (1) CONFINED IN OR TRANSFERRED TO A CORRECTIONAL FACILITY; AND

24 (2) TRANSPORTED TOGETHER WITH ADULTS CHARGED WITH OR
25 CONVICTED OF A CRIME.

26 (C) A child who is not delinquent may not be committed or transferred to a
27 facility used for the confinement of delinquent children.

28 [(c)] (D) Unless an individualized treatment plan developed under § 10-706 of
29 the Health - General Article indicates otherwise:

30 (1) A child may not be committed or transferred to any public or private
31 facility or institution unless the child is placed in accommodations that are separate
32 from other persons 18 years of age or older who are confined to that facility or
33 institution; and

34 (2) The child may not be treated in any group with persons who are 18
35 years of age or older.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2001.